IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Crl.MC.No. 4045 of 2006()

CMP.3774/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PATTAMBI

.....

PETITIONER:

HYDERALI,
S/O. KUNGHAMU HAJI,
MANNENGAL,
EDAYADATHU VEEDU,
CHEMMALACHERRY,
KULATHUR,
PERINTHALMANNA TALUK.

BY ADV. SMT.RINCI ANTONY.T
SMT.R.LEELA

RESPONDENTS:

---

1. STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
PATTAMBI.

BY P.P. SRI. K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.4045 OF 2006

Dated this the 15th day of December, 2006

ORDER

The short grievance of the petitioner is that the learned Magistrate is insisting on production of bank guarantee by the petitioner and this disentitles him to take advantage of the order directing release of the vehicle to him. The vehicle was allegedly involved in illicit transportation of sand.

2. The learned counsel for the petitioner submits that the petitioner's vehicle is not involved in any other instance of transportation of sand and the insistence on onerous and harsh conditions merely because some other vehicles were involved in such transportation is not justified. The learned counsel for the petitioner submits that the vehicle may be directed to be released subject to the normal and usual condition of solvent sureties executing a bond. Insistence on production of bank guarantee will virtually deny the petitioner's right to claim release of the vehicle. The vehicle will be exposed unnecessarily to sun and rain and the petitioner will be constrained to suffer loss and prejudice.

This, in short, is the plea.

3. Having considered all the relevant inputs, I am satisfied that it is not necessary to insist rigidly on production of bank guarantee. The learned Magistrate must release the vehicle to the petitioner on condition that he executes a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate. The learned Magistrate must scrupulously ensure that the sureties offered are sufficient and solvent.

4. This Crl.M.C. is allowed to the above extent.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge